

**IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT
OF TENNESSEE AT NASHVILLE**

FRANK CURTIS MALIER and
wife, MARY ANN MALIER,

Plaintiffs,

VS.

UNITED STATES OF AMERICA,

Defendant.

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Case No. 3:11-CV-00091
Judge Haynes
Magistrate Judge Bryant

ORDER:

Motion denied.

s/ John S. Bryant

U.S. Magistrate Judge

PLAINTIFFS' RULE 12(f) MOTION TO STRIKE

Come the Plaintiffs, and pursuant to the provisions of Rule 12(f) of the *Federal Rules of Civil Procedure*, move to strike the Defendant's Reply and Rebuttal to Plaintiffs' Response to Defendant's Motion to Dismiss, and for reason thereof state that the Defendant did not obtain leave of Court to file the reply and, accordingly, failed to comply with the provisions of Local Rule 7.01(b) which provides that: "...A reply memorandum may be filed upon leave of court ..."

While the Defendant obtained an extension of time to file a reply to the Plaintiffs' Response, at no time has the Defendant obtained leave of Court to file such a reply. Seeking leave of Court would have allowed the Plaintiffs to request of the Court an opportunity to address new issues raised by Defendant's reply. Accordingly, the Defendant's Reply should be stricken from the record.